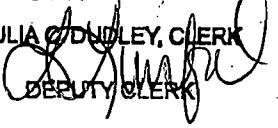


IN THE WESTERN DISTRICT COURT OF VIRGINIA
BIG STONE GAP DIVISION

CLERK'S OFFICE U.S. DIST. COURT
AT ABINGDON, VA
FILED

JUN 19 2017

JULIA C. DUNLEY, CLERK
BY: 
DEPUTY CLERK

Melinda Scott)
Plaintiff)
V)
Andrew Carlson)
Defendant)

CL NO 2:2017-cv-10011

Motion to Strike

COMES NOW the Plaintiff, pursuant to Federal Rule 12(f)(2), and requests that this Honorable Court strike the Defendant's Motion to Dismiss on the grounds that the Motion to Dismiss was not filed before the Defendant's Responsive Pleading was filed. Defendant seeks to dismiss the case pursuant to Rule 12(b)(1) and 12(b)(6). Federal Rule 12 states that "A motion asserting any of these defenses must be made *before* pleading if a responsive pleading is allowed". The Defendant served the Plaintiff a Responsive Pleading simultaneously with a Motion to Dismiss therefore waiving his right to file a Motion to Dismiss under Rule 12(b)(1) and 12(b)(6).

I ASK FOR THIS


Melinda Scott, *pro-se*

PO BOX 1133-2014PMB87

Richmond, Virginia

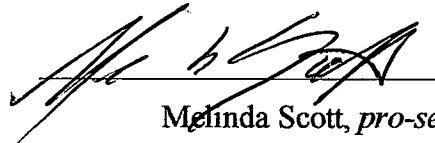
540.692.2342

msscottw@gmu.edu

Certificate of Service

I, Melinda Scott, Plaintiff in case number 2:17-cv-10011, do hereby certify that I have mailed, pursuant to Federal Rule 5(c) a copy of this Motion to Strike to the Defendant at his last known address at: Andrew Carlson, 150 Willow Creek Avenue, Schenectady, NY, 12304 on this 15th day of June, 2017.

Respectfully submitted,



Melinda Scott, *pro-se*

PO BOX 1133-2014PMB87

Richmond, Virginia

540.692.2342

msscottw@gmu.edu